43rd Annual Report
Covering the Licence-year Ended
February 28, 1983

Annual Report of the
Motor Carrier Commission

Pursuant to Section 34
of the Motor Carrier Act

Queen's Printer for British Columbia ©
Victoria, 1983

VANCOUVER, BRITISH COLUMBIA

To His Honour the Lieutenant Governor in Council
of the Province of British Columbia

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-third Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 28, 1983.

MOTOR CARRIER COMMISSION

JUDGE G. ROSS SUTHERLAND, *Chairman*

GERARD M. MORRIS, *Deputy Chairman*

ALBERT W. BASILE, *Commissioner*

REPORT OF THE MOTOR CARRIER COMMISSION, 1982/83

GENERAL

The present members of the Motor Carrier Commission are Chairman Judge G. Ross Sutherland, Deputy Chairman Gerard M. Morris, and Commissioner Albert W. Basile.

The Commission derives its authority from a provincial statute, the *Motor Carrier Act*, and a federal statute, the *Motor Vehicle Transport Act*.

It is the duty of the Commission to regulate motor carriers with the objects of promoting adequate and efficient service and reasonable and just charges therefor, and of promoting safety on the public highways, and of fostering sound economic conditions in the transportation business of the province.

The Commission may grant or refuse an application for licence authority to transport goods or persons for compensation. The application is first investigated by the Commission's Motor Carrier Branch before being submitted to the Commission, which takes into consideration all the relevant information it has before it, including evidence of public need for the service sought to be provided and the public interest, before arriving at a decision.

REVENUE

The statement of revenue derived from fees for licences and permits, as well as from miscellaneous sources for the year under review, indicates a total income of $1,216,651.06. This is an increase of $27,459.78 over the revenue generated in the previous year.

Statistics on revenue, the number of permits issued and a comparison of the number of licences issued are contained in Appendix "A" attached.

APPLICATIONS

During the licence year 1982–83, a total of 2,841 applications were filed with the Motor Carrier Branch, the investigative arm of the Commission. Of that total, 1,623 were applications for new, alterations to or transfers of licence authority, which, in general, required an investigation and a report to the Commission. The balance of 1,218 were applications for additional vehicles with no change to the operating authorities held.

PUBLIC HEARINGS

The Commission presided over 22 public hearings in the 1982–83 licence year, as well as a number of Show Cause hearings and reviews of previous decisions. Some of the more important decisions, findings and Orders of the Commission are shown as Appendix "B" of this report.

SAFETY

Regular inspection of passenger vehicles is now conducted on behalf of the Commission by personnel of the Motor Vehicle Testing Stations. In those areas without testing stations, however, this duty continues to be performed by Inspectors of the Motor Carrier Branch of the Commission.

Certain standards of construction and safety for vehicles which operate over the highways of British Columbia are contained in the *Motor Vehicle Act*. In addition, the *Regulations of the Motor Carrier Act* ensure the internal comfort and safety of passengers, particularly in vehicles having a carrying capacity of more than 12 passengers.

COMPLIANCE MEASURES

Inspectors of the Commission's Motor Carrier Branch, in addition to their regular duties investigating and reporting on applications, co-operate fully with and assist various agencies, including the R.C.M.P., local police officers and employees of the Weigh Scales operated by the Ministry of Transportation and Highways, to ensure compliance with the provisions of the *Motor Carrier Act and Regulations*.

Following a reorganization of the Branch in the previous licence year to put more emphasis on compliance measures, the Commission has recently implemented a totally new compliance program. As part of that program, Inspectors of the Motor Carrier Branch have participated in a series of most effective road blocks throughout the province, with the purpose of ensuring that carriers are properly licensed and their vehicles are safe to operate. The Commission continues, of course, to schedule Show Cause hearings to deal with those licensed carriers who ignore the licensing requirements of the Act or fail to provide an adequate and efficient service.

In addition, the new program makes provision for the Manager of Compliance or another speaker to appear at seminars and meetings of enforcement agencies such as police or weigh scale personnel to make them more familiar with the intricacies of the Acts administered by the Commission, especially the interpretation of licensing requirements and compliance procedures.

TARIFFS AND TIME SCHEDULES

Licensed motor carriers are required, pursuant to the *Motor Carrier Act*, to file with the Commission current rate schedules (tariffs) and to adhere to those schedules in calculating and assessing charges for services performed. Those licensed carriers who operate on a time schedule must file with the Commission schedules indicating their arrival and departure times from the termini on their routes.

Time schedules and rate schedules, once approved for filing by the Commission, may not be varied without first obtaining the consent of the Commission.

The Number of Applications Filed During Licence-years Ending in the Month of February of Each Year Referred to

	1979	1980	1981	1982	1983
Rate	349	419	521	554	444
Time	29	15	20	19	21

APPENDIX "A"

NUMBER OF LICENCES—ANNUAL COMPARISONS

The following table, by years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1979/80	1980/81	1981/82	1982/83
Passenger (buses)	2,156	2,333	2,206	2,221
Passenger (taxis)	2,298	2,475	2,348	2,363
Public freight	22,776	24,329	23,522	25,289
Limited freight	2,497	2,674	2,547	2,562
Totals	29,727	31,811	30,623	32,435

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1982/83

	$
Licence fees	1,140,437.19
Temporary permits	19,459.37
Miscellaneous	56,754.50
	1,216,651.06

REVENUE—ANNUAL COMPARISONS

The following is a comparative table by years of gross revenue:

Kind of Licence	1979/80	1980/81	1981/82	1982/83
	$	$	$	$
Passenger (buses)	95,864.50	108,864.50	128,496.65	138,096.61
Passenger (taxis)	75,870.00	57,870.00	108,502.15	118,101.11
Public and limited freight	793,971.28	812,006.55	826,603.47	884,239.47
Permits	25,187.71	33,187.71	57,819.86	19,459.37
Miscellaneous[1]	35,137.00	44,137.00	67,769.15	56,754.50
Totals	1,026,030.49	1,086,065.76	1,189,191.28	1,216,651.06

[1] Includes fees for transfers, alterations of licences, and for copies of conditions of licences and transcripts.

TEMPORARY PERMITS

In order to provide flexibility, Part 10 of the *Motor Carrier Act Regulations* provides for the issuing of temporary permits in lieu of or as an adjunct to carriers' licences.

The following is a summary of the number of temporary permits issued during the year 1982/83:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	5,807
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of licence, etc.)	19,707
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	208
Total	25,722

APPENDIX "B"

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

22-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the Application by D-Line Carriers Ltd., Published as No. 2460/80 and Revised Once, the Revised Application Being Published as No. 2460A/80.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 17th day of March 1982.

ORDER

The application of D-Line Carriers Ltd. (hereinafter referred to as the applicant) published as No. 2460A/80, came before the Motor Carrier Commission for hearing on January 25, 1982, continued until January 29, 1982, was then adjourned to February 4, 1982, and was completed on February 5, 1982.

The applicant was represented by Counsel Mr. Paul Sabatino. The qualified objectors, Johnston Terminals Ltd., Public Freightways Ltd., Capital Freightways Ltd., Sidney Freight Service Ltd., and Canadian Pacific Express and Transport Ltd., were represented by Counsel Mr. R. W. Macdonald. The qualified objector, Loomis Courier Service Ltd., was represented by Counsel Mr. D. LaCharite, while T.C. Trucking Ltd. was represented by a company official, Mr. Terry Robbins. Holmesland Transport Ltd., although having qualified as an objector, failed to make itself known at the hearing and did not participate.

During the course of the hearing, officials of the applicant company testified as to the nature of its operations and its reasons for seeking the additional authority outlined in the application. In addition, a substantial number of shipper witnesses representing various types of businesses took the stand in support of the application. Officials of the companies objecting to the application testified as to the serious economic conditions prevailing on Vancouver Island, and told of the effect on their operations, which included reduced volumes of traffic and layoffs of employees.

Certain of the evidence given by witnesses appearing on behalf of the applicant indicated that the applicant may have been providing service outside the scope of its authority. In addition, former employees of D-Line Carriers Ltd., called by the objector, Loomis Courier Service Ltd., gave sworn testimony of what appeared to be widespread violations of the Act by the applicant.

As a result of this evidence, the Commision issued an oral Cease and Desist order during the course of the hearing, instructing the applicant to adhere strictly to its Conditions of Licence, and, in addition, ordered and implemented an investigation of the applicant's operations.

After considering all of the information before it, including the evidence and testimony presented at the hearing, as well as the exhibits filed, the Commission finds as fact the following:

(a) The service provided by the applicant has been primarily in the field of courier or messenger service.

(b) The applicant failed to show any pressing public need or necessity for the additional authority sought in the application.

(c) No substantial evidence was presented to indicate that the existing carriers are not providing a reasonable and adequate service to shippers.

(d) Presently licensed carriers are not operating to capacity at the present time; consequently, there is an excess of equipment available to meet the general freight requirements of shippers.

(e) The investigation instituted by the Commission confirmed that the applicant had consistently provided service not authorized by its Conditions of Licence.

The Commission orders, therefore, that:

(1) the application of D-Line Carriers Ltd., published as No. 2460A/80, be and it is hereby refused;

(2) the motor carrier licence authority issued to the applicant, D-Line Carriers Ltd., be suspended for a period of 10 days, commencing on Monday, April 19, 1982 to and including Wednesday, April 28, 1982;

(3) pursuant to section 9 (3) of the *Motor Carrier Act*, D-Line Carriers Ltd. shall have the option of paying a pecuniary penalty of $100 (one hundred dollars) for each day during which, but for this alternative, the suspension would be in effect;

(4) D-Line Carriers Ltd. be assessed and pay to the Commission forthwith the sum of $3,500 (three thousand, five hundred dollars) towards the costs of these proceedings, which costs are to be paid before Wednesday, April 28, 1982, or the suspension imposed will continue until such time as the costs are paid in full.

It is further ordered that the $50 security deposit filed by the applicant be applied to the reduction of costs; the security deposits of the qualified objectors be refunded; but that the security deposit of Holmesland Transport Ltd., who failed to be represented, be and it is hereby forfeit.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman
GERARD M. MORRIS
Commissioner
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

30-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of a Review by the Motor Carrier Commission of its Decision Denying the Application of Allan Paper Stock Co. Ltd., Published as No. 680/81.

Before: GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 26th day of May 1982.

ORDER

The application of Allan Paper Stock Co. Ltd., published as No. 680/81, came before the Motor Carrier Commission for review in Victoria, B.C., on May 4, 1982.

The applicant was represented by Counsel, Mr. John Pennington. The objector, Capital Freightways Ltd., was represented by Counsel, Mr. R. W. Macdonald, and the objectors, Johnston Terminals Ltd., and Victoria Van and Storage Ltd., by Mr. C. Bawa and Mr. A. Skillings, respectively, both being company officials.

Sworn testimony was heard from a number of witnesses in support of the application. The Commission also accepted a brief from the British Columbia Motor Transport Association iterating that Association's policy opposing the granting of any licence which would allow a "private carrier" to solicit and transport for-hire freight.

Counsel for the applicant argued and the Commission concurs with his argument that it would not be proper at a public hearing on a particular application to act selectively on a policy statement, such as that presented by the British Columbia Motor Transport Association.

Based on the evidence and brief and the arguments made at the hearing, the Commission finds as a fact that:

(1) Allan Paper Stock Co. Ltd. is in the business of collecting, purchasing and selling waste materials, and incidental to this business, does provide a useful service to community groups by being a market, and supplying certain equipment for handling paper and other waste products;

(2) Allan Paper Stock Co. Ltd., for its own purposes, has acquired transportation equipment for the collection of materials and for the carriage of those materials to its own customers, using other carriers only when convenient;

(3) The Commission has no evidence that Allan Paper Stock Co. Ltd. has made an earnest attempt to negotiate with licensed carriers for "contract service" at acceptable rates;

(4) The current economic downturn has seriously affected the businesses of licensed carriers serving Vancouver Island, and vice versa;

(5) There is a competitive, more than adequate, service available to shippers seeking to move goods to or from Vancouver Island;

(6) Allan Paper Stock Co. Ltd. is seeking licence authority to transport for-hire freight in order to subsidize its own normal business expenses;

(7) The granting of the application would adversely affect presently licensed carriers who are serving a difficult and economically depressed lane of traffic.

The Commission has concluded that the granting of the licence authority sought would not be in the public interest.

It is ordered, therefore, that the application of Allan Paper Stock Co. Ltd., published as No. 680/81, be and it is hereby refused, and the original decision of the Commission in this matter is confirmed.

By the Commission:
GERARD M. MORRIS
Commissioner
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

40-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of All Licences Issued by the Motor Carrier Commission of British Columbia Pursuant to the Said Act in the Name of Quest Distributors Ltd., of Surrey, B.C.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, and A. W. BASILE, *Commissioner*

Dated the 21st day of July 1982.

ORDER

The hearing at which Quest Distributors Ltd. (hereinafter referred to as the respondent) was required to Show Cause why all of the licences issued to it by the Motor Carrier Commission should not be cancelled for non-compliance with the provisions of the *Motor Carrier Act* and Regulations, came before the Motor Carrier Commission on May 11, 1982, and was completed on May 12, 1982.

Mr. R. W. Macdonald appeared as Counsel for the respondent, and Mr. Tobin Robbins acted as Counsel for the Motor Carrier Commission.

By Order No. 35-79 dated November 8, 1979, the Commission granted the respondent authority to transport a wide range of building materials and goods sold by retail building supply stores, but only for "Quest Distributors Ltd., and retail building supply stores that are *member-shareholders* of Quest Distributors Ltd."

In the Order the Commission said, among other things that:

(1) the applicant's stated prime reasons for seeking licence authority are:
   (a) the desire to have complete control and direction over the trucking services to be provided between its distribution centres, to serve the needs of its *shareholders* in the most efficient and economical manner possible;
   (b) the desire to resolve any doubt as to the propriety of the manner and means employed previously by the applicant in transporting freight in the ordinary course of its business operations;
(2) *member shareholders* are located in most areas of the province;
(3) *member shareholders* enjoy certain direct economic service benefits by virtue of their membership;
(4) it is possible that these benefits might be maintained or enhanced provided the applicant has clear authority to deliver merchandise to the *member shareholders* and such authority might also result in an indirect cost benefit to consumers;
(5) the applicant has not presented any compelling or convincing evidence to support the application for licence authority to transport freight not destined to the premises of its *member shareholders* or to its distribution centre for redistribution to its *member shareholders*.

Following an investigation of complaints which alleged that the respondent was operating in violation of the *Motor Carrier Act* and Regulations, the Commission, by formal Notice of Hearing, scheduled a Show Cause hearing for May 11, 1982.

At the Show Cause hearing, Counsel for the Commission filed as Exhibit No. 5 a letter of particulars dated April 30, 1982, which contained details of 220 alleged violations. The letter of particulars had been mailed to the respondent prior to the hearing.

Mr. Robbins, at the commencement of the hearing, stated that the respondent was prepared to admit to 163 of the 220 alleged violations. He then withdrew 14 of the allegations, which left the remainder in issue. Mr. Macdonald concurred with Mr. Robbins' statement and confirmed that 163 violations involving the illegal hauling of lumber were admitted by the respondent.

The allegations that were not admitted concern, *inter alia*, one lumber haul, three movements of ore, 40 carriages of modular homes for Spruce Capital Homes Ltd., and allegations of the respondent using false bills of lading.

Mr. Robbins called Inspector Paquette of the Motor Carrier Branch to give oral evidence. Inspector Paquette testified as to his difficulty in gaining access to the respondent's records, and after doing so, of discovering one binding case containing 179 bills of lading, all of which appeared to cover illegal hauls. The said binding case and its contents were entered as Exhibit No. 3.

Mr. Enns, general manager of the respondent company, the only witness called by Mr. Macdonald, testified that the respondent had changed its policy by adding a new class of buying members, such as Spruce Capital Homes Ltd., which were not, in fact, *member shareholders*, and were not required to purchase shares. This witness, in the view of the Commission, displayed an amazing lack of knowledge with respect to the activities of the transportation arm of Quest Distributors Ltd. when one considers that his company was called before the Commission to Show Cause why the respondent's licences should not be cancelled. He attributed his lack of knowledge and involvement with the carrier's operations to the current economic conditions, which required him to spend more time with other divisions of the respondent's operations.

The Commission, at the conclusion of the proceedings, issued an order directing Quest Distributors Ltd. to Cease and Desist from transporting:

(a) freight for persons who are not member shareholders of Quest Distributors Ltd., specifically including Spruce Capital Homes Ltd.; and

(b) back-hauls of lumber for persons other than Quest Distributors Ltd. or its member shareholders.

The Commission makes the following findings of fact:

(a) that the respondent has knowingly engaged in numerous carriages of freight contrary to its Conditions of Licence and the Commission's Order No. 35-79;

(b) that the respondent has knowingly carried freight for companies or persons which were not member shareholders of Quest Distributors Ltd., as defined by the Commission in its Order No. 35-79;

(c) that the respondent knowingly used false bills of lading to make illegal moves of freight to escape prosecution;

(d) that the respondent knowingly obstructed the investigation of its operations by the Motor Carrier Branch by not filing records of illegal hauls with its normal documents, but rather keeping them in a separate binding case;

(e) that the respondent, even while under investigation by the Motor Carrier Branch, continued to operate illegally and to obstruct the Branch's investigations; and

(f) that the respondent has full knowledge of the extent of its licence authority, but chose to interpret same in a much broader manner without consulting the Commission.

The Motor Carrier Commission, having made these findings of fact, makes the following order:

(1) that all of the motor carrier licence authority issued to and in the name of Quest Distributors Ltd. by the Motor Carrier Commission, together with all rights and privileges conferred by such licences, be and they are hereby cancelled;

(2) that Quest Distributors Ltd. be assessed and pay to the Commission forthwith the sum of $7,600 (seven thousand, six hundred dollars) towards the costs of these proceedings.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

43-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of All Licences Issued by the Motor Carrier Commission of British Columbia Pursuant to the Said Act in the Name of Walmac Transportation Systems Inc. of Burnaby, B.C.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, and A. W. BASILE, *Commissioner*

Dated the 29th day of July 1982.

ORDER

The Show Cause hearing of Walmac Transportation Systems Inc. (hereinafter referred to as the respondent) came on before the Motor Carrier Commission on Wednesday, June 28, 1982.

The respondent was represented by Counsel, Mr. P. B. Joyce, who called as witnesses Mr. T. Nyberg, President of the respondent company and Mr. D. M. Connop, C.A. of Henfrey & Company Ltd., duly appointed receiver-manager of Walmac Transportation Systems Inc.

The Commission also heard sworn evidence from Mr. T. F. Slater, a spokesman for five (5) former lease operators of the respondent. He testified that the respondent owed them approximately $50,000 to $60,000.

Another witness, Mr. R. J. Savoie, told the Commission that he expressed some interest in purchasing the respondent's operating authorities, but at the date of the hearing no offer to purchase existed, as the ones he had made had either expired or were withdrawn.

The respondent, through Mr. Nyberg, informed the Commission that it had gone into receivership on May 31, 1982, and that since that time it had not been fully utilizing its operating authorities. It told the Commission that it was providing transportation service to a very limited degree.

The receiver-manager told the Commission that the respondent, in all probability, would not be able to pay its debts, and that it would be in the best interest of the creditors of the respondent to have the assets, including the operating authorities, sold to partially satisfy some of the respondent's indebtedness.

The Commission, in considering all of the evidence and information before it, finds as a fact that:

(1) the respondent is not fully utilizing its motor carrier operating authorities;

(2) the respondent is in debt and is unable to meet its normal financial commitments;

(3) the respondent has not shown sufficient cause why its licences should not be cancelled.

The Commission orders, therefore, that all of the motor carrier licence authorities issued to and in the name of Walmac Transportation Systems Inc., together with any rights and privileges conferred by such licences, be and they are hereby cancelled.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

53-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of an Application by Robert and Barbara Swash of Aldergrove, B.C., for Licence Authority Published as No. 3088A/81.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 7th day of October 1982.

ORDER

The application of Robert and Barbara Swash, hereinafter referred to as the applicant, published as No. 3088A/81, was heard by the Motor Carrier Commission on Wednesday, October 6, 1982.

The applicant in these proceedings was represented by Mrs. Barbara Swash.

One licensed carrier, Thompson Horse Van Lines Ltd., appeared at the hearing to oppose the application, but did not qualify as an objector pursuant to the Regulations Respecting Motor Carriers, because it failed to mail to the applicant a copy of the statement of its objections 10 days prior to the date of the hearing, as required by Regulation 4.16 (1) (b).

The applicant, in presenting its case, called three witnesses, who testified generally that they transported their own horses most of the time, but used the services of presently licensed carriers occasionally, and would like to see some competition in the business, which they thought would improve service. The view of the witnesses was that the licensing of the applicant, who boarded and trained horses, would not result in a great deal of business being taken away from the presently licensed carriers.

On considering all the testimony and information presented at the hearing, the Commission concluded that the application should be granted.

It is ordered, therefore, that the application of Robert and Barbara Swash, published as No. 1088A/81, be and it is hereby granted in the terms applied for.

It is further ordered that the security deposit of $50 filed by the applicant and by the licensee who failed to qualify, be refunded.

By the Commission:

GERARD M. MORRIS
Deputy Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

63-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of All Licences Issued by the Motor Carrier Commission of British Columbia Pursuant to the Said Act in the Name of Cornelius Nickel, D/B/A Nickel Logging, of Vanderhoof, B.C.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 12th day of November 1982.

ORDER

The hearing at which Cornelius Nickel d/b/a Nickel Logging (hereinafter referred to as the respondent) was required to Show Cause why all of the licences issued to him should not be cancelled, came before the Motor Carrier Commission on October 20, 1982, at Prince George, B.C.

Mr. Nickel, the respondent, was advised at the commencement of the hearing of the alleged violations to which he would be required to respond, which included operating outside his scope of licensing authority, and operating with falsified Conditions of Licence.

The Commission then called four witnesses: Messrs. Leon Engstrom and Audley James Newcomb, employees of the Weigh Scale Branch, Ministry of Transportation and Highways; and Inpector B. Macdonald and Donald J. Murray, Manager of Freight Licensing, both employed by the Motor Carrier Branch of the Motor Carrier Commission, who testified as to the circumstances leading up to the recovery from the respondent of certain falsified Conditions of Licence, and the altercation which developed thereafter.

At the conclusion of their testimony, the Commission informed the respondent that the case respecting operating outside his scope of licensing authority was not being proceeded with, but that a prima facie case had been made in the matter of the operation by the respondent with falsified documents. The Commission then asked the respondent to reply to that particular charge.

In rebuttal, Mr. Nickel insisted that the second clause concerning the transportation of logs and peelers had been personally typed on his Conditions of Licence by Mr. Murray, an assertion that was vehemently denied by Mr. Murray, who produced a log book indicating that he had not even seen Mr. Nickel on the day in question. Mr. Murray went on to say that he would do no such thing because it was clearly illegal and contrary to the instructions of the Commission.

The Commission, after carefully considering the testimony presented, and the exhibits filed at the hearing, makes the following findings of fact:

(1) The allegation that the respondent was operating outside the scope of his licence authority is not confirmed;

(2) The allegation that the Conditions of Licence recovered from Mr. Nickel were falsified is proven.

The Commission takes a very serious view of the falsified Conditions of Licence, which is an offence under Section 54 (a) of the *Motor Carrier Act*, which reads as follows:

54. Every person commits an offence against this Act who

(a) makes any return or furnishes any information to the Commission which is false in any particular.

The Commission has concluded that the falsified Conditions of Licence recovered from Mr. Nickel were under his personal custody and were altered in an unauthorized manner while in his possession, and that whether or not he had actually changed them himself was immaterial, as the responsibility for such action must lie with him.

The Commission is deeply concerned with the altercation which developed near Vanderhoof, B.C. on July 23, 1982 (now before the Courts) when an officer of the Weigh Scale Branch, performing his duty under the authority of the Motor Carrier Commission, attempted to recover from the respondent the Conditions of Licence in question.

In concerning itself with the penalty to be assessed in this matter, the Commission, taking into account the circumstances of the respondent, and the present economic conditions in the area where the respondent is in the business of transporting logs for a living, has decided that the licence authority of Cornelius Nickel d/b/a Nickel Logging ought not be cancelled, but that a severe alternative penalty must be imposed as the offence is most serious.

The Commission orders, therefore, that:

(1) the motor carrier licence authority issued to Cornelius Nickel d/b/a/ Nickel Logging be suspended for a 10-day period commencing on Monday, December 13, 1982 to and including Wednesday, December 22, 1982;

(2) pursuant to section 9 (3) of the *Motor Carrier Act*, Cornelius Nickel d/b/a Nickel Logging has the option of paying a pecuniary penalty of $100 for each day during which, but for this alternative, the suspension would be in effect;

(3) Cornelius Nickel d/b/a Nickel Logging is assessed the sum of $688 towards the costs of these proceedings, which costs are to be paid to the Commission before December 22, 1982, or the suspension will continue in force until such time as the costs are paid in full.

By the Commission:

GERARD M. MORRIS
Deputy Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

75-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Somewhat Similar Applications for Licence Authority from Two Corporately Related Firms: (A) Delta Sunshine Taxi (1972) Ltd., Published as No. 1254/81; and (B) Tsawwassen Taxi Ltd., Published as No. 1255/81; and (C) Monider Benipal and Nahar Dhesa D/B/A King Taxi, Published as No. 1591/81.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 3rd day of December 1982.

ORDER

The applications of Delta Sunshine Taxi (1972) Ltd., Tsawwassen Taxi Ltd. and Monider Benipal and Nahar Dhesa d/b/a King Taxi, hereinafter referred to as Delta, Tsawwassen, and King, respectively, came before the Motor Carrier Commission for hearing on November 15, 1982 in Ladner, B.C.

The applicants, Delta and Tsawwassen, were represented by Counsel, Mr. Peter F. Parsons, and the applicant, King, was represented by Counsel, Mr. Sheldon S. David.

The objectors, Kennedy Taxi (1980) Ltd., Surdell Taxi Ltd., and Fraser Valley Taxicabs (1981) Ltd., were represented by Counsel, Mr. Paul Sabatino; Newton Whalley Hi Way Taxi Ltd. was represented by Counsel, Mr. Gordon J. Bitney; White Rock South Surrey Taxi Ltd., was represented by Mr. K. O'Connor, its Operations Manager.

Mr. Peter Fanning, Secretary of both Delta and Tsawwassen, the prime witness called by Mr. Parsons, traced his history in the taxi business, and with those firms in particular. He explained that the operations of both firms had been upgraded and improved by the addition of experienced staff, better equipment and more efficient methods. A 24-hour dispatch service is provided.

Mr. Fanning, whose firms are restricted to picking up passengers in the Municipality of Delta, expressed the wish to be permitted to compete on even terms with the objectors, several of which, although located elsewhere, can also pick up passengers in portions of Delta.

While on the witness stand, and particularly during cross-examination, Mr. Fanning admitted that his firm had violated its authority by picking up passengers in the Municipality of Surrey, by transporting freight (documents), by setting up three operating zones in Surrey and one in Richmond, and by installing at least three direct telephone lines to different locations in Surrey, in which municipality Delta and Tsawwassen are not licensed to pick up passengers. He estimated that 20 to 25 per cent of his business originated in Surrey.

The Commission noted with interest certain testimony given at the hearing concerning the apparently common practice referred to as "overs", whereby through an informal arrangement among taxi companies, service is provided to adjoining areas by another firm if the cab company originally contacted is unable to perform the services required.

The Commission also noted that the licensed carriers concerned with these particular applications had all exceeded their authority to some extent by transporting freight (documents) and crossing over to adjoining areas in some cases.

At the conclusion of the hearing, the Commission issued a general Cease and Desist Order to the licensed carriers present, directing them to operate entirely within the confines of their licence authority, and specifically admonished the two applicants, Delta and Tsawwassen, in this respect.

That Cease and Desist Order is hereby confirmed.

In addressing the cases presented on behalf of the three applicants, the Commission finds no compelling evidence that additional service is required in the Municipality of Surrey at this time. The Commission, in fact, heard considerable evidence that the existing licensees who object to the applications, presently are operating at far below their capacity.

The application of King Taxi, in particular, is without any merit, with no reliable evidence being produced of public need or of the fitness of the applicant to provide an adequate service.

The Commission orders, therefore, that the application of Monider Benipal and Nahar Dhesa d/b/a King Taxi, published as No. 1591/81, be and it is hereby refused, and the security deposit filed by them refunded.

Delta and Tsawwassen did not produce any substantial evidence of public need, except from customers in Surrey who apear to have been served illegally by these applicants for some time.

The Commission has stated time and time again that it will not reward licensed carriers who violate the terms and conditions of their licence authority. These particular applicants have knowingly operated an illegal service to Surrey over a long period of time, and now wish to point to that illegal operation as evidence of public need and public acceptance.

Although there are some mitigating circumstances present and it is apparent that both Delta and Tsawwassen filled a void by providing a service to the South Surrey area, which was not being served adequately by the previous licensee, the Commission cannot, under any circumstances, condone the illegal activities of these applicants.

It is ordered, therefore, that:

(1) Delta Sunshine Taxi (1972) Ltd. and Tsawwassen Taxi Ltd. *Cease and Desist* from any further violations of their Conditions of Licence;

(2) the licence authority issued to Delta Sunshine Taxi (1972) Ltd., and Tsawwassen Taxi Ltd., be suspended for a 10-day period, commencing on Monday, January 10, 1983 to and including Wednesday, January 19, 1983;

(3) pursuant to section 9 (3) of the *Motor Carrier Act*, Delta Sunshine Taxi (1972) Ltd. and Tsawwassen Taxi Ltd. have the option of paying a pecuniary penalty of $100 for each day of which, but for this alternative, the suspension would be in effect;

(4) the Superintendent of Motor Carriers closely monitor the operations of Delta Sunshine Taxi (1972) Ltd., and Tsawwassen Taxi Ltd. for a period of four months from the date of this Order, and report to the Commission as to the compliance by these licensees with the provisions of the motor carrier licence issued to them by the Commission.

The Commission will, in this particular case, defer its final decision with respect to the application of Delta Sunshine Taxi (1972) Ltd., published as No. 1254/81, and Tsawwassen Taxi Ltd., published as No. 1255/81, for a period of four months from the date of this Order.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

82-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of all Licences Issued by the Motor Carrier Commission of British Columbia Pursuant to the Said Act in the Name of Ewen Transfer (1981) Ltd., of Abbotsford, B.C.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 31st day of December 1982.

ORDER

The hearing at which Ewen Transfer (1981) Ltd., (hereinafter referred to as the respondent) was to Show Cause why all of the licences issued to it by the Motor Carrier Commission should not be cancelled for failure to provide an adequate and efficient service, came before the Commission in Burnaby, B.C., on Monday, October 18, 1982.

It was learned through several witnesses, including Mr. Kenneth Arthur Merritt, its president, that the respondent company was in difficult financial circumstances, that its predecessor, Ewen Transfer Ltd., was still owed a considerable sum of money, that no-one knew where the records and accounts of the respondent company were located at the present time, and that the last transportation service it had provided prior to the hearing was some time in June of 1982.

At the conclusion of the hearing, the Commission deferred its final decision until November 18, 1982, to give Mr. Merritt the opportunity to submit before that date a verifiable financial plan for continued operation of the respondent's business, together with supporting documentation of firm arrangements made for the orderly payment of debts, including back wages.

On November 16, 1982, the respondent filed with the Commission a written submission which fell far short of the Commission's requirements in this matter, as it was completely lacking in any documentation or confirmation which substantiated that firm arrangements had been entered into with respect to the payment of debts or of suitable refinancing.

In considering all of the information gained at the hearing and through the subsequent submission of the respondent, the Commission has concluded that the respondent failed to Show Cause why its licences should not be cancelled. It is the view of the Commission that in the present circumstances the respondent could not survive, and it would not be in the public interest to permit the respondent to continue to operate as a licensed carrier offering infrequent service.

It is ordered, therefore, that all of the motor carrier licence authorities issued by the Commission in the name of Ewen Transfer (1981) Ltd. be and they are hereby cancelled, and all rights and privileges flowing therefrom be and they are hereby extinguished.

By the Commission:
GERARD M. MORRIS
Deputy Chairman
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

84-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of an Application by Empress Transportation Co. Ltd., of Victoria, B.C. for Licence Authority Published as No. 34/82.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 31st day of December 1982.

ORDER

The application of Empress Transportation Co. Ltd., (hereinafter referred to as the applicant) for fifteen (15) additional limited passenger-vehicle (taxi) licences, came before the Motor Carrier Commission for hearing on December 6, 1982, in Victoria, B.C. The hearing was completed on December 8, 1982, and argument was presented on December 20, 1982, at the offices of the Commission in Vancouver.

The applicant in these proceedings was represented by Counsel, Mr. Paul B. Joyce. There were five qualified objectors present: Angus McDonald d/b/a/ A & M Taxi was represented by Mr. Angus McDonald; Bluebird Cabs Ltd. and The Greater Victoria Taxi Owners' Association were both represented by Mr. William Bill; Victoria Taxi Ltd. was represented by Mr. John F. MacLean; and Stanley Medd spoke on his own behalf.

The purpose of the application was twofold, firstly the desire to have additional vehicles to meet the natural growth being experienced by the applicant, and, secondly, to meet the condition specified by the Empress Hotel that a contract for exclusive service to its patrons and guests required that the successful bidder have a minimum fleet of fifty (50) vehicles.

Two witnesses were called by the applicant: Mr. W. G. Atkinson, and Mr. K. J. Bodnarchuk. Mr. Atkinson, an expert on transportation, suggested that the ratio of taxis to population was lower in Victoria than in other similar sized cities, and that although no specific studies had been conducted by him in the Victoria area, he felt that because of various demographic factors, Victoria might well require a higher ratio of taxi cabs in relation to the existing population.

The second witness, Mr. Bodnarchuk, testified as to the applicant's history, facilities, equipment, use of that equipment, and the value and use of computers. He claimed definite growth and success in the operations of the company. In addition, he felt that there was potential development in the future, specifically in the areas of providing service for the ambulatory disabled, and the possible use of taxis as para-transport to replace and/or supplement the use of buses in low ridership areas where bus transportation was uneconomic.

The objectors called 12 witnesses, who testified generally as to the problems being experienced by Victoria taxi companies in the difficult economic conditions that prevail at the present time, a situation which has caused them to take some vehicles off the road in order to ensure their drivers of reasonable incomes.

The Commission also heard evidence, and in fact was in receipt of a letter from the City of Victoria, which asked that no additional taxi licences be issued until such time as a sub-committee of the Victoria City Council had looked into the entire matter of taxi operations in the City.

In dealing generally with the evidence before it, the Commission noted that the Empress Hotel had, in fact, awarded an exclusive contract to the applicant even though it did not have the required 50 vehicles. The Commission also noted that the applicant had lost the Royal Jubilee Hospital contract to Bluebird Cabs Ltd., and that this would improve the applicant's ability to service the Empress Hotel contract. The Commission expressed its concern that the letting out of special contracts to bid recently had resulted in substantial increases in the amount of money being paid for such contracts, and expressed the belief that this might inevitably result in increases in the taxi rates charged the general public.

The Commission also noted and was concerned with the testimony of the objectors that cabs were being taken off the road, which practice, in fact, resulted in there being "dormant licences" held, and the vehicles relating to such licences consequently not being available to serve the public. The Commission has therefore instructed the Superintendent of Motor Carriers to conduct an investigation into the "dormant licences" said to exist, with a view, depending on its findings, to taking action to reduce the number of licences held but not utilized by taxi companies in the Victoria area.

In addressing the merits of the application, the Commission noted that the applicant started its business with 12 licences when it acquired the operations of Empress Taxi (1978) Ltd. (in receivership) some time in 1979, and now controls and/or dispatches approximately 42 vehicles. On the surface the applicant appears to be an aggressive, efficient, and well-organized operator.

Despite that appearance, however, evidence was heard from the applicant that it was not cost efficient to dispatch only 42 vehicles (therefore more vehicles were required); that there had been some delays in payments of accounts; that increases in fares would be required; and that the applicant had knowingly provided extensive services in the Colwood district contrary to its Conditions of Licence until the Commission issued a Cease and Desist Order on October 29, 1982.

Concerning the matter of potential markets, such as the transportation of the disabled and para-transport, the Commission noted the evidence that the need for such services was not imminent, and could well be dealt with by granting licences or temporary operating permits if and when such services were specifically required.

The Commission believes, on the basis of all the information before it, including the testimony heard and the exhibits filed at the hearing, that there is not sufficient justification to increase the number of taxi licences in the Victoria area at the present time. In coming to this conclusion, the Commission considered very carefully the evidence of Mr. W. G. Atkinson and were not convinced that it had enough direct relationship to the current status of taxi operations in Victoria and its environs to be in any way a compelling reason for granting the application.

The Commission, on the basis of the evidence, also came to the conclusion that granting additional licences at this time might well endanger the operations of some existing licensed carriers and that the public might be disadvantaged by an impairment in service.

The Commission orders, therefore, that that application of Empress Transportation Co. Ltd., published as No. 34/82, be and it is hereby refused.

It is further ordered that the security deposits filed by the applicant and by the qualified objectors on record be refunded.

By the Commission:

GERARD M. MORRIS
Deputy Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

87-82

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application of Hudson's Bay Company, Published as No. 810/82.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 31st day of December 1982.

ORDER

The hearing of the application of Hudson's Bay Company, published as No. 810/82, was convened by the Motor Carrier Commission on Monday, November 29, 1982, and completed after three days of hearing on December 1, 1982.

The applicant was represented by Counsel, Mr. David H. Searle, Q.C., and the sole objector, the British Columbia Motor Transport Association, was represented by Counsel, Mr. Denis LaCharite.

The applicant was seeking licence authority to transport general freight by charter trip for seven (subsequently reduced at the hearing to six by the deletion from the application of Diamond Company Ltd.) major internal divisions of the company and wholly-owned subsidiaries.

Transportation services for corporately related, albeit wholly-owned, subsidiaries are required to be licensed in British Columbia, whereas in other jurisdictions such transportation is considered to be private carriage of freight, which does not require motor carrier licensing.

The applicant led evidence at the hearing to support its contention that motor carrier licence authority would enable it to provide a more efficient transportation service, and improved inventory control, thus reducing the cost of operation to the ultimate advantage of the public. The applicant did concede that the granting of the authority would have some effect on existing motor carriers, but it argued, not to the extent that any of the carriers would be put out of business.

The British Columbia Motor Transport Association, through its Counsel, objected to the application on principle. The B.C.M.T.A. opposes the mixing of private and public freight, and the granting of licence authority to any private carrier such as the Hudson's Bay Company to provide a transportation service either to its subsidiaries or to the public. The applicant, however, in evidence and argument, clearly took the position that it does not intend to mix freight.

The Commission appreciated the significance of the arguments presented by the British Columbia Motor Transport Association, but, on the basis of the information presented, concluded that the granting of the application would be in the public interest, as the economies realized by the more efficient operations of the applicant would be of considerable benefit to the public at large. The Commission also concluded that the granting of the authority will not so adversely affect existing carriers that the granting of the authority would be contrary to the public interest.

It is ordered, therefore, that the application of Hudson's Bay Company, published as No. 810/82, as amended at the hearing, be and it is hereby granted in the terms applied for, subject to the usual licensing requirements, *except* for Clause No. 4 (from points in B.C. to the B.C./U.S.A. border) which, in the view of the Commission, was not adequately supported.

It is further ordered that the security deposits filed by the applicant and by the qualified objector be refunded.

By the Commission:
GERARD M. MORRIS
Deputy Chairman
A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

4-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of All Licences Issued to and in the Name of Sangara Trucking Ltd.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 18th day of January 1983.

ORDER

Whereas the Motor Carrier Commission, after considering the application of Sangara Trucking Ltd. (Sangara) to transfer all Class III Public Freight-vehicle Licences from F & D Dispatch Ltd., published as No. 2768/79, which included existing Clauses Nos. 1 and 3 to provide a transportation service for certain named shippers, granted the application on May 22, 1980; and

Whereas Sangara was informed by letter dated November 22, 1980 that acceptable contracts were required to be filed with the Commission relative to the named shippers Sangara was authorized to serve; and

Whereas Sangara was again informed by letter dated January 14, 1981 to its solicitor that acceptable contracts were required to be filed in the established manner; and

Whereas a meeting was held on July 6, 1982, between the Motor Carrier Commission and Sangara, together with its Counsel, to consider the failure to file acceptable contracts relative to Clauses Nos. 1 and 3; and

Whereas at that meeting Sangara was directed to file acceptable contracts relating to clauses Nos. 1 and 3 prior to September 1, 1982, or voluntarily relinquish the licence authority in question; and

Whereas to this date Sangara has not filed the required acceptable contracts pursuant to section 22 of the *Motor Carrier Act*, although requested on several occasions to do so, and has not voluntarily relinquished the licence authority in question;

It is ordered, therefore, that the licence authority issued to Sangara Trucking Ltd. be and it is hereby amended by the deletion from the Conditions of Licence attached thereto of Clauses Nos. 1 and 3, which read as follows:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
1. Pres-to-logs and pressed wood products (charter trips).	MacMillan, Bloedel Ltd., Plywood Division.	From Vancouver delivered to points in Licence District Nos. 14, 14A and 15.
3. Baled peat moss products (charter trips).	Western Peat Moss Ltd.	From Municipalities of Delta and Richmond, delivered to Licence Districts Nos. 14, 14A and 15; or vice versa.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

5-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application of Innisfail Transfer Ltd. of Innisfail, Alberta, Published as No. 284A/82.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, and GERARD M. MORRIS, *Commissioner*

Dated the 20th day of January 1983.

ORDER

The application of Innisfail Transfer Ltd., published as No. 284A/82, came before the Motor Carrier Commission for hearing on January 13, 1983.

The applicant was represented by Counsel, Mr. L. R. Peterson, Q.C., and the objectors, C Mile Transport Ltd., Southern Interior Holdings Ltd., Alltrans Express (a division of T.N.T. Canada Inc.), and Reimer Express Lines Ltd. were represented by company officials.

The applicant sought by this application to alter its existing motor carrier licence authority by adding thereto certain clauses which would permit it to provide transportation services under contract to five named shippers.

At the outset of the hearing, a motion was made and accepted by the Commission to delete from the application the clause pertaining to the transportation of lumber for CanFor Ltd.

The application was strongly supported by witnesses who testified as to the volume shipped or expected to be shipped, the need for the services of Innisfail Transfer Ltd., the excellence of the service already being provided by them in other jurisdictions, and the advantage which accrued to the shippers by virtue of their proximity to the facilities of the applicant.

In opposing the application, the objectors generally cited the poor economic conditions, the competition for existing business, and their desire to share in some of the transportation services required by the shippers involved.

In considering all of the evidence before it, the Commission has concluded that a public need exists for the services sought to be provided by the applicant, and that the application ought to be granted in the terms for which a definite need was demonstrated.

It is ordered, therefore, that the application of Innisfail Transfer Ltd., published as No. 284A/82, be and it is hereby granted in the following terms:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
Pet Food (charter trips).	Unifeed Western Pet Foods.	From the B.C./Alberta border transported to points in Licence Districts 14, 14A, 15, 1 and 6 and vice versa for damaged or rejected goods.
Sugar, molasses and syrup (bulk only) (charter trips).	Hendy's Candies Ltd.	From Vancouver, B.C. transported to the B.C./Alberta border.
Confectionery (charter trips).	Hendy's Candies Ltd.	(See draft).
Insulation materials (charter trips).	Thermall Insulation (Western) Ltd.	From the B.C./Alberta border to job sites in all points in Licence Districts 14, 14A and 15 and vice versa for damaged or rejected goods.
Lumber (charter trips).	Red-Alta Building Products Ltd.	From all points in Licence Districts 16, 17 and 21 to the B.C./Alberta border.

It is further ordered that the security deposits filed by the applicant and by the objectors in this matter be refunded.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

6-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of Applications for Similar Motor Carrier Licence Authority of (A) P.E.P. Transportation Ltd., of Kamloops, B.C., Published as No. 2494A/81; and (B) Kamloops Charter Services Ltd., of Kamloops, B.C., Published as No. 2832/81.

Before: GERARD M. MORRIS, *Deputy Chairman*, and A. W. BASILE, *Commissioner*

Dated the 24th day of January 1983.

ORDER

The application of P.E.P. Transportation Ltd. ("P.E.P."), published as No. 2494A/81, and that of Kamloops Charter Services Ltd. ("Kamloops"), published as No. 2832/81, came before the Motor Carrier Commission for hearing on January 10, 1983 in Kamloops, B.C.

"P.E.P." was represented by Counsel, Mr. Roger R. Plested, and "Kamloops" was represented by Counsel, Messrs. S. Dev Dley and R. C. Adkin. The three qualified objectors, Western Bus Lines of B.C. Ltd., Canada West Coachlines Ltd. and Greyhound Lines of Canada Ltd., were represented respectively by Mr. Ray Therrien; Counsel, Mr. John Gnitt; and Counsel, Mr. Tobin Robbins.

Early in the hearing, Counsel for "Kamloops" moved to amend his client's application by adding thereto "and to the B.C./U.S. and B.C./Alberta borders, or vice versa," thus making it an extraprovincial undertaking. The Commission reserved its ruling on the motion and proceeded with the hearing.

Two witnesses were called by "P.E.P.", one being its president, who testified as to the company's operations, which primarily involved transporting passengers to and from the airport at Kamloops, B.C.; and the other, an official of VIA Rail, who had supported in writing both of the applications being considered by the Commission at these proceedings.

Most of the support attested to by the 12 witnesses called by "Kamloops" was clearly attributable to the popularity and ability of Mr. Lawrence Roger Gray, who served not only as Secretary of the applicant firm, but also as its principal driver; and much was made of the lower charter rates offered by this applicant.

On the latter point, it was disclosed during the hearing that the tariff rates proposed to be filed by the applicant differed to some extent from the rates actually negotiated. For example, a contract was submitted indicating that "Kadanac Holdings Ltd." was to be charged $1.50 per running mile, which differed significantly from the proposed tariff rate of $1.30 per mile.

The qualified objectors, through their witnesses, indicated generally that they could provide all of the services required in the area, and that they had already been hurt financially by the transportation services carried out by "Kamloops", as well as by the economically unsound rates being offered by that applicant. Testimony was offered as to the heavy capital investment required and the extremely high cost of doing business, which affected directly the rates charged by established operators.

At the conclusion of the hearing, the Commission indicated that the motion by "Kamloops" to amend its application was granted and the Commission in its deliberations would give consideration to the application as amended.

The Commission, after considering all of the information before it, makes the following findings of fact:

(1) The applicant, "P.E.P." was inadequately supported locally;

(2) The applicant, "Kamloops" was fairly well supported locally.

The Commission orders, therefore, that the application of P.E.P. Transportation Ltd., published as No. 2494A/81 be and it is hereby refused.

The Commission is most concerned that "Kamloops", because of its admitted violations of the *Motor Carrier Act* and Regulations on at least eight occasions, may not be a fit operator at this time to be licensed.

For this reason, the Commission reserves its decision respecting the application of Kamloops Charter Services Ltd., published as No. 2832/81, as amended at the hearing.

The Commission feels that the services of an additional small local operator for service within British Columbia are needed to fill a particular need. In view of the fact that this particular applicant was fairly well supported locally, the Commission directs the Motor Carrier Branch to issue a 90 day temporary operating permit authorizing Kamloops Charter Services Ltd. to operate one vehicle in the manner applied for, as an *intra-provincial carrier*, subject to prior compliance by the applicant with the established licensing requirements. The permit may be extended over a period not exceeding one year, on proof of public need being filed with the Motor Carrier Branch in the established manner.

The Commission proposes to formally review the application of Kamloops Charter Services Ltd., published as No. 2832/81, one year from the date of this Order, and may refuse or may grant the application in the appropriate terms after considering the applicant's behaviour and the economic viability of the operation in the interim period, during which its activities will be closely monitored by the Superintendent of Motor Carriers.

It is further ordered that the security deposits filed by both applicants and by the qualified objectors in this matter be refunded.

By the Commission:

GERARD M. MORRIS
Deputy Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

10-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application by Sjoerd A. DeVries, of Williams Lake, B.C., Published as No. 742/82.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 28th day of January 1983.

ORDER

The application of Sjoerd A. DeVries for 3 New Limited Passenger-vehicle (Taxi) Licences came before the Motor Carrier Commission for hearing on January 19, 1983, in Williams Lake, B.C.

The applicant represented himself, and the qualified objector, Town Taxi Inc., was represented by its president, Mr. Kim Goforth.

Eleven witnesses, some of them non-users of taxis, testified on behalf of the applicant and recited various complaints regarding the existing taxi service but, in most cases, did not give specific information about alleged delays, and damaged or unclean vehicles. The support for the applicant, including a petition filed as an exhibit, appeared to demonstrate more of a general desire for an additional competitive taxi service rather than proof of the need and necessity for another taxi service.

The qualified objector called six witnesses who either refuted the testimony regarding complaints (where particulars were provided) or spoke highly of the taxi service operated by Town Taxi Inc. A number of letters expressing complete satisfaction with the present taxi service were filed as exhibits. Additional correspondence from the R.C.M.P., and the testimony of the local licence inspector, revealed that no complaints had been received respecting the existing service.

In reviewing all of the evidence and information before it, the Commission makes the following findings of fact:

(1) The applicant failed to submit any evidence that he possessed the managerial or financial ability needed to provide the service sought to be licensed;

(2) The applicant failed to submit any evidence as to the quality and permanence of the service he proposed to offer;

(3) The applicant applied to operate three taxis, but stated in evidence that he intended to put only two into service;

(4) The applicant testified that he planned to dispatch the taxis by means of new technology, directly to and from the vehicles themselves, but failed to submit evidence as to the suitability of such a dispatch system, or what, if any, effect such a system might have on the safety, convenience and comfort of his passengers;

(5) The applicant failed to submit any information whatsoever as to the economic feasibility of a two-taxicab operation in Williams Lake;

(6) The applicant failed to prove that there is a public need and necessity for an additional taxi company to operate in Williams Lake;

(7) The objector provided sufficient evidence to satisfy the Commission that the granting of any additional taxi licences in Williams Lake, at this time, would be in excess of requirements.

The Commission is of the view that despite extremely difficult economic times, adequate taxi service is being provided in Williams Lake by Town Taxi Inc., the qualified objector, and that it would not be in the public interest to licence any additional services at this time.

The Commission orders, therefore, that the application of Sjoerd A. DeVries, published as No 742/82, be and it is hereby refused.

It is further ordered that the security deposits of the applicant and the qualified objector be refunded.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

21-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of an Application of Perimeter Transportation Ltd., of Richmond, B.C., for alteration to Motor Carrier Licence Authority, Published as No. 2993/81.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, and A. W. BASILE, *Commissioner*

Dated the 21st day of February 1983.

ORDER

The application of Perimeter Transportation Ltd. (the applicant), published as No. 2993/81, came before the Motor Carrier Commission for hearing on January 31, 1983.

The applicant was represented by Counsel, Mr. L. R. Peterson, Q.C., and Greyhound Lines of Canada Ltd. (the objector) was represented by Counsel, Mr. T. S. Robbins.

The applicant sought to expand the area it was permitted to serve by amending Clause No. 9 of its existing licence authority by deleting therefrom the words "within a distance of 150 miles (241.39 km) therefrom", and substituting therefor the words "within British Columbia or to the B.C./U.S.A.; B.C./Alberta; or B.C./Yukon borders, if involved in an extraprovincial or international undertaking, and return if arranged for on the same charter."

If granted, Clause No. 9 would then read as follows:

"As a limited passenger vehicle transporting a person or a group of persons from the City of Vancouver and points situated within a 25 road miles (40.23 km) radius of its boundaries to any point within British Columbia, or to the B.C./U.S.A., B.C./Alberta, or B.C./Yukon borders if involved in an extraprovincial or international undertaking, and return if arranged for on the same charter.

Restriction: No service which could be described as a taxicab service shall be rendered.

No business serviced under this clause is to originate on Vancouver Island."

Five transport supporters, as well as the manager of the applicant company, Mr. Michael G. Cafferky, were called by Mr. Peterson to testify in support of the application. These witnesses generally testified as to their own transportation needs, both currently and in the future, which depended to some extent on the expected increase in the number of cruise ships calling at Vancouver, Transpo 86, new growth in the tourist industry, and a general improvement in the economy.

The objector called two witnesses, including its City Sales Manager, Mr. M. Kozniuk, who testified that his company's business was down; prospects were not good; and it was having problems for the first time in its history of disposing of a number of used buses, which were being put on sale following the purchase of new or more modern equipment.

In considering all of the information before it, the Commission makes the following findings of fact:

(1) The applicant is a small company based in British Columbia and wholly owned by British Columbians;

(2) The applicant company has operated with a very limited charter authority and contract authority since 1973;

(3) The applicant company has provided its customers with excellent service since commencing business, and many of its customers would like the opportunity of availing themselves of its service over an expanded area;

(4) Although the granting of additional authority to the applicant may take some business from existing carriers already licensed in those areas applied for, it should not have such an effect on the existing carriers so as to be detrimental to the public interest, but, in fact, will be in the public interest.

On the basis of these findings, the Commission has concluded that it would be in the public interest to grant the application of Perimeter Transportation Ltd.

It is ordered, therefore, that the application of Perimeter Transportation Ltd., published as No. 2993/81, be and it is hereby granted in the terms applied for.

It is further ordered that the $50 security deposits filed by the applicant and by the objector be refunded.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

A. W. BASILE
Commissioner

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

20-83

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286 and Amendments Thereto and Regulations Thereunder; and in the Matter of all Licences Issued by the Motor Carrier Commission of British Columbia Pursuant to the Said Act in the Name of N.M.C. Transport Ltd., of Pemberton, B.C.

Before: JUDGE G. ROSS SUTHERLAND, *Chairman*, GERARD M. MORRIS, *Commissioner*, and A. W. BASILE, *Commissioner*

Dated the 21st day of February 1983.

ORDER

Whereas the Motor Carrier Commission has been reliably informed and through its own investigations has determined that N.M.C. Transport Ltd. has not provided an adequate and efficient transportation service for some time; and

Whereas the Commission, by Notice of Hearing dated February 17, 1983, has scheduled a hearing for April 26, 1983, at which time the said N.M.C. Transport Ltd. will be required to Show Cause why all of the licences issued to it should not be cancelled for failure to provide an adequate and efficient service;

The Commission orders, therefore, that until such time as a decision has been rendered following that Show Cause hearing, all of the licences issued by the Motor Carrier Commission pursuant to the *Motor Carrier Act* in the name of N.M.C. Transport Ltd., and all of the pri ileges conferred by such licences, be and they are hereby suspended.

By the Commission:

JUDGE G. ROSS SUTHERLAND
Chairman

GERARD M. MORRIS
Commissioner

A. W. BASILE
Commissioner

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200-683-P1568